REMARKS

UPON THE

CONDUCT OF THE PERSONS

POSSESSED OF

THE POWERS OF GOVERNMENT

IN

FRANCE.

AND UPON

THE OFFICIAL NOTE OF M. BARTHELEMI,

Dated at Baſle, March 26, 1796.

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AUTHENTIC PAPERS.

NOTE

Tranſmiſe a M. Barthélémi, par M. Wickham, le 8 *Mars*, 1796.

LE Souſſigné, Miniſtre Plénipotentiaire de ſa Majeſté Britannique près les Cantons Suiſſes, eſt autoriſé à faire parvenir à Monſieur Barthélémi le déſir de ſa Cour, de ſavoir par ſon canal, les diſpoſitions de la France, par rapport à l'objet d'une pacification générale. Il demande en conſéquence à Monſieur Barthélémi de lui tranſmettre par écrit (& après avoir pris les informations néceſſaires) ſa réponſe aux queſtions ſuivantes:

1. Eſt-on diſpoſé en France à ouvrir une négotiation avec ſa Majeſté Britannique, & ſes alliés, pour le rétabliſſement d'une paix générale, ſur des conditions juſtes & convénables; en envoyant, pour cet effet, des miniſtres à un congrés, à tel endroit dont on pourra convenir ci-après?

2. Seroit-on diſpoſé à communiquer au ſouſſigné les Baſes générales d'une pacification, telles que la France voudroit les propoſer; afin que ſa Majeſté & ſes alliés puiſſent enſuite examiner de concert, ſi elles ſont de nature à pouvoir ſervir de fondement à une négotiation pacifique?

3. Ou bien deſireroit-on de propoſer une autre voie, quelconque, pour parvenir au même bût d'une pacification générale?

Le ſouſſigné eſt autoriſé à recevoir de la part de Monſieur Barthélémi, la réponſe à ces queſtions, & de la tranſmettre à ſa cour: mais il n'a aucune autorité pour entrer avec lui en négotiation ou en diſcuſſion ſur ces objets.

A' *Berne*, ce 8 Mars, 1796.

Signé W. WICKHAM.

NOTE

Tranſmiſe à M. Wickham, par M. Barthélémi, le 26 *Mars*, 1796.

LE ſouſſigné, ambaſſadeur de la République Françaiſe près le louable corps Helvetique, a tranſmis au Directoire Exécutif la note, que Monſieur Wickham, miniſtre plénipotentiaire de ſa Majeſté Britannique près les Cantons Suiſſes, à bien voulu-lui faire parvénir, en date du 8 Mars. Il a ordre d'y répondre par l'expoſé des ſentimens & des diſpoſitions du directoire exécutif.

Le directoire déſire ardemment de procurer à la république Françaiſe une paix juſte, honorable & ſolide. La démarche de Monſieur Wickham lui eût cauſé une véritable ſatisfaction, ſi la déclaration même que ce miniſtre fait, de n'avoir aucun mandat, aucun pouvoir, pour négocier, ne donnait lieu de douter de la ſincérité des intentions pacifiques de ſa cour. En effet, s'il était vrai que l'Angleterre commençât à connoître ſes véritables intérêts, qu'elle deſirât de rouvrir pour elle-même les ſources de l'abondance & de la proſpérité ; ſi elle cherchait la paix de bonne foi, propoſerait-elle un congrés, dont le reſultat néceſſaire ſerait de rendre toute négotiation interminable, ou ſe bornerait-elle à demander vaguement que le gouvernement Français indiquât " *une autre voie quelconque pour arriver au même but, d'une pacification générale ?*"

Cette démarche, n'aurait-elle eu d'autre objet que d'obtenir pour le gouvernment Britannique la faveur qui accompagne toujours les premiéres ouvertures de paix ? N'aurait-elle pas été accompagnée de l'eſpoir qu'elles n'auraient aucunes ſuites ?

Quoiqu'il en ſoit, le directoire exécutif, dont la politique n'a pour guide que la franchiſe & la loyauté, ſuivra dans les explications une marche qui y ſera entiérement conforme. Cédant au deſir ardent qui l'anime de procurer la paix à la

République

République Françaiſe, & à tous les peuples, il ne craindra pas de ſe prononcer ouvertement. Chargé par la conſtitution de l'exécution des loix, il ne peut faire ou entendre aucune propoſition qui y ſerait contraire. L'Acte conſtitutionnel ne lui permet de conſentir à aucune aliénation de ce, qui, d'après les loix exiſtantes, conſtitue le territoire de la République.

Quant aux pays occupées par les armées Françaiſes, & qui n'ont point été réunis, ils peuvent ainſi que les autres intérêts politiques ou commerciaux, dévenir l'objet d'une négotiation ; qui préſentera au directoire les moyens de prouver combien il déſire arriver promptement à une heureuſe pacification.

Il eſt pret à recevoir à cet égard toutes les ouvertures juſtes, raiſonnables, & conformes à la dignité de la République.

A' *Baſle*, le 6 Germinal, an 4ieme. de la République Françaiſe, (26 Mars, 1796.)

Signé, BARTHELEMI.

NOTE.

LA cour de Londres a reçu, de la part de ſon Miniſtre en Suiſſe, la réponſe faite aux queſtions qu'il avoit été chargé d'adreſſer à M. Barthélémi par rapport à l'ouverture d'une négotiation pour le rétabliſſement de la tranquillité générale.

Elle a vu avec régret combien le ton & l'eſprit de cette réponſe, la nature & l'étendue des demandes qu'elle renferme, & la maniére de les annoncer ſont eloignés de toute diſpoſition pacifique.

On y avoue la prétenſion inadmiſſible de s'approprier tout ce que les loix actuellement exiſtantes en France peuvent avoir

avoir compris ſous la dénomination de territoire Français. A une pareille demande on ajoute la déclaration expreſſe de ne vouloir, ni faire, ni même entendre aucune propoſition contraire ; & cela, ſous le pretexte d'un réglement interne, aux diſpoſitions duquel toute autre nation eſt entiérement étrangére.

Tandis que l'on perſiſtera dans ces diſpoſitions, il ne reſte au Roi que de pourſuivre une guerre également juſte & néceſſaire.

Dès que ſes ennemis feront paroître des ſentimens plus pacifiques, ſa Majeſté s'empreſſera toujours d'y concourir, en ſe prêtant, de concert avec ſes alliés, a toutes les méſures les plus propres à rétablir la tranquillité générale ſur des conditions juſtes, honorables, & permanentes : Soit par l'établiſſement d'un congrés, moyen qui a ſi ſouvent & ſi heureuſement rendu la paix à l'Europe ; ſoit par la diſcuſſion préliminaire des principes qu'on pourra propoſer de part ou d'autre pour baſe d'une pacification générale ; ſoit enfin par l'examen impartial de toute autre voïe, qui lui ſera indiquée pour arriver au même but ſalutaire.

A Downing Street, ce 10 *Avril*, 1796.

THE

THE FRENCH TERRITORY

As conſtituted by the exiſting Laws of France, includes:

1. France, as it ſtood at the commencement of the war.
2. The French colonies in the Weſt Indies ſtill occupied by France.
3. The Iſles of France and Mauritius.
4. Martinico and Tobago.
5. The whole iſland of St. Domingo.
6. Pondicherry, Chandenagore, Carical, Mahé, and the other French eſtabliſhments in India.
7. Avignon, and the county Venaiſſin.
8. The Principality of Montbeliard, and biſhoprick of Porentrui.
9. Savoy, Nice, and Monaco.
10. Auſtrian Flanders and Brabant, and generally, whatever belongs to the Emperor on this ſide the Rhine.
11. Maeſtricht, Venlo, and Dutch Flanders.
12. The biſhoprick of Liege.

REMARKS,

&c. &c.

ALL Europe has beheld with ſurprize and indignation, the reply of the perſons poſſeſſed of authority in France, to the communication made to M. Barthélémi, by his Majeſty's miniſter to the Swiſs Cantons, March 8th. 1796. Not that the pride, arrogance and ambition of that country, of which it has ſeen ſo many cruel proofs, during ſo long a period of war and confuſion, could at this time excite any ſentiment of aſtoniſhment; but that it could not obſerve without freſh concern and regret, how fruitleſs had been to France all the leſſons ſhe has received in the courſe of her attempts to diſſolve, at her arbitrary pleaſure, all the civil and political relations of this part of the world, and to ſet up claims, pretenſions and principles, in contravention with the peace and with the law of nations.

All Europe has ſeen with terror and diſmay, the declaration of men exerciſing the executive authority, and pretending to repreſent the ſovereignty of their nation, yet diſclaiming the power of peace and war, the moſt eſſentially inherent attribute of governments in their relations and intercourſe with foreign ſtates, and to which alone theſe latter can look or refer, as often as their tranquillity is diſturbed by open claims and hoſtilities, or expoſed by reciprocal diſputes.

At the cloſe of four years of an unparalleled contention, in which it has endured or witneſſed every ſpecies of calamity and affliction, and ſeemed to retrograde and fall back upon that barbariſm and rudeneſs, from which ſix centuries have ſcarcely enabled it to emerge, all Europe has beheld with conſternation the perdious attempt of one of its ſtates to exiſt in the midſt of it, without acknowledging the common laws, principles and duties, which nature, experience, and neceſſity have eſtabliſhed and ſanctioned, and to which all other political bodies in all parts of the world have ſubmitted and conformed. It could not ſee without the moſt juſt and deepeſt horror, the ſeeds of eternal feuds and interminable quarrels, wantonly ſcattered throughout the world, by the atrocious

pretenſion

pretenſion of one of its nations to ſubſiſt without the powers of negotiating or making peace with others, upon any conditions which juſtice, mutual convenience, or finally, the preſſure and neceſſity of circumſtances, and the events of war may demand or impoſe; and arrogating to its own private and internal regulations, an authority paramount to the whole body and code of the law of nature, applied to the conduct and affairs of nations and ſovereigns.

It is evident, that, if it were competent to France to deprive herſelf by the ſuſpenſion of the "*jura ſummi imperii*," applied to the right of peace and war, of the power of negotiating during a limited time, or till the preliminary acknowledgement of certain conditions favourable to France; that country would not only be in a ſtate inconſiſtent and incompatible with the repoſe, liberty and independence of all Europe, but that there could remain in futurity no other iſſue of the dreadful conflict which has ſo long convulſed that part of the globe, than the univerſal dominion of France on the one hand, or on the other, her final and abſolute ſubjection under the ban of the civilized and chriſtian world. For if it were permitted for any ſtate to exempt itſelf from that deciſion, which in all its conteſts is to be found (and unfortunately

to be found only) in the events of wars, and to declare before hand, that it abrogates and annihilates its own power of conforming to the arbitration of heaven, which we are compelled to acknowledge in theſe dreadful trials; what is it but to appeal from the *laſt* appeal, to protract diſputes to a mortal difference, and equalize every quarrel with the duration of the human race?

It were almoſt to degrade and abuſe the faculties of reaſon, to argue more deeply againſt the abſtract poſſibility and hypotheſis of a nation exiſting without the right or power to compoſe its diſputes, and forbidden by fundamental laws from exerciſing the fulneſs of its own competency and juriſdiction. The mind cannot ſtoop to conſider with ſerioufneſs, the pretence of a mighty empire ſuſpending its own diſcretion and arbitrement under the ſevereſt exigency and preſſure of calamity, and ſubmitting itſelf implicitly to the will and law of a defunct and annihilated government; of a departed and extinguiſhed authority, which ſtanding upon the confines of the paſt and future, and illumined and inſpired like other holy perſons at the eve of diſſolution, has commanded in the legiſlative ſpirit of prophecy, that its ſucceſſors ſhall act preciſely in the ſame manner, whether they are to be fortunate or unhappy, whether they

they are defeated or victorious, whether they ſhall approve its wiſdom and fitneſs, or condemn and deplore its impracticability and injuſtice. But when we recollect that this nation have ſcorned and denied the ſanction and authority of fourteen hundred years, and refuſed to be bound or circumſcribed by all the acts of all their anceſtors, that they have ſet themſelves free from all the obligations of cuſtom and convention, and aſſerted the *impreſcriptible* power and liberty of the exiſting generation, againſt all the ſponſions contracts and engagements of their predeceſſors, we are forced to admire the new ſcruple and religion, the pious awe and veneration with which they obey the oracle of the laſt year, and of an aſſembly of which even the political exiſtence is not yet extinct, but transfuſed and transformed in two entire third parts into the body of the preſent legiſlature. How conſoling to obſerve the returning reſpect and piety with which the preſent government of France regard the expiring voice of their adored Convention, and their revived ſuperſtition for whatever is inveſted with the ſacred character of a ſummer's antiquity. Surely it is fortunate for that country and for Europe, that the laſt and dying words of this humane and virtuous aſſembly, deſtined

tined to paſs into irrevocable and holy laws for all its ſucceſſors, were ſo unlike the bequeſt of that abominable deſpot, who preſcribed the terms and boundaries of the Roman world, and expired ſetting limits to the ambition and uſurpation of his country.

It is but too certain, that France (under whatever form of government ſhe has exiſted, whether truſting to her immenſe population, extent of territory and reſources, or to the influence and parties ſhe has conſtantly created by criminal means in all the ſtates of Europe) has long dared to conſider herſelf in a different light or character from other powers, as exempted from the common reſtraints, and authoriſed to aim and attempt beyond the limits and coercion of political morality. The hiſtory of this latter century, is that of the defenſive war of all Europe againſt her ambition and cupidity, and it will preſent no ſources of conſolation to us or to our poſterity, that ſhe has ſucceeded to ſo great a degree, by means ſo humiliating to us and to human nature; for ſhe has ſcarcely ever condeſcended or deigned to uſe any other than thoſe of undiſguiſed force and violence, which ſhe derived from a phyſical preponderance, or ſuch groſs pretexts and flimſy artifices, as ſhe never could

have reſorted to, but from a fixed contempt and reſolution to inſult the faculties and ſentiments of inferior nations. It is lamentable to conſider, that ſhe has ſucceeded ſo long, or at leaſt ſo often; the maſk is at length, however, thrown off, by the improvident audacity of her preſent rulers, the laſt half-decent grace of hypocriſy is abandoned; the eyes of ſurrounding ſtates are opened, and it is reaſonable to hope, that ſhe will not much longer be able either to uſurp or to deceive.

It was poſſible for the individuals holding the powers of that government to have reſorted to ſome other pretext for the continuance of a war, neceſſary to their own power and impunity; it was poſſible to have placed other barriers and obſtacles before the deſired tranquillity of Europe, and to have inſiſted *as from themſelves* upon the ſame conditions which they pretend to have been traced in indelible characters by their unerring predeceſſors. Being determined to prevent any ſettlement of France, or repoſe in Europe, they might have inſiſted upon the ſame prepoſterous terms, and have enjoyed all the honours of the invention. Without refuſing all conference and diſcuſſion, with aſſerting the extraordinary axiom that "the neceſſary reſult of a congreſs muſt be to make the negociation interminable;

interminable;" they might have propoſed the very ſame identical preliminaries, and have been equally certain that they would furniſh an effectual and inſurmountable obſtacle to the peace they dreaded and the tranquillity they hate. It is immaterial to Europe, as long as her ſubjection and diſmemberment are exacted by France, whether it is by the teſtament of Robeſpierre, or the mandate of his ſucceſſors in authority; why therefore do the governors of France heap upon the memory of the Convention the whole merit of this glorious and ſalutary reſolution? Are they afraid of deſcending to poſterity as the ſpreaders of the empire, as the acquirers and conquerors of that extended ſoil which henceforth is to be a part of their country? Do they ſhrink before the glare of their own renown, and tremble at the mighty fame which awaits them? or is it nothing in the chart and ſcale of celebrity for ſuch illuſtrious names as Reubel and le Tourneur to be coupled with the Rhine and the Meuſe, and flow down with common honours into the ocean of immortality? Is it nothing for the Generals Carnot and Barras to ſet the foot of France upon the Apennines, to reſtore her banners in the peninſula of Hindoſtan and the Weſtern Archipelago?

Nothing

Nothing, can be great which it is great to deſpiſe. Either to deſire the accompliſhment of theſe objects, or to deſpiſe the glory and renown which belong to their atchievement, cannot be a true character of greatneſs; and the rulers of France appear too fond of robes and feathers, and caps and ribbons, to be able to contemn in earneſt any title to fame, or pretence for diſtinction. Theſe glorious and high ſounding claims ſeem then rather thruſt and rejected invidiouſly upon their predeceſſors, than attributed with gratitude or modeſty; there is ſomething in them, however concealed or confuſed, which defeats the apparent natural purpoſe, and makes it unſafe for any power exiſting in France to diſplay the full panoply of its glory. It is ſafer for the French directory to inſult the reaſon of mankind, than to dazzle their own nation with all the reſplendency of their honours; to be ridiculous and hateful with the public of all the world, than to conquer Belgium and Holland, and recover Pondicherry and Martinique before the eyes of their countrymen.

Is it to be believed then that the preliminaries inſiſted upon by the government in that country, are the poſthumous honours of the

Convention, in which no man living is bold or ſacrilegious enough to deſire to partake? are they pretended and diſclaimed, are they diſavowed and enforced at the ſame moment; are they at once favourites and diſhonoured? There is but one way of ſolving theſe queſtions, which ſo naturally ariſe; it is this: That France deſires peace, and the government deſires war: that afraid of oppoſing the general deſire for peace in the nation, the government diſclaims the power of making it, and ſhifts the reſponſibility upon its predeceſſors. Elſe it were no more than that habitual inſolence of France which gratuitouſly mocks and derides the reaſon of mankind, which couples injury with inſult, and barbs every ſhaft with a moral poiſon eating the body but excruciating the mind.

It is time, to conſider whether this pretence of incapability and incompetenceto treat upon other terms than thoſe of that impreſcriptible ſovereign the Convention, be not the moſt audacious mockery, the moſt indecent farce of ſtate, which was ever repreſented in the eyes of civilized ſociety.

The French Government, according to the note of M. Barthélémi, is forbidden by the Conſtitutional Charter to ſurrender the conqueſts

queſts, or even to exchange them againſt the loſſes of France. Belgium, which ſhe has uſurped, and even Tobago, an Engliſh iſland reconquered by that power, are integral parts of indiviſible France. Whatever has formerly been or is become a part of France, is alſo inalienable, is held in mortmain, cannot be looſed or let go by this inexorable uſurer the Convention. Wherever the French have trodden is France; whether the print of their foot is effaced by the purſuit of their conquerors, or their track freſh in violence and invaſion, it is all France, inalienable, indiviſible France: their enemies may expel them, but in vain; the legiſlature, the executive authority, the ſovereignty of the nation, cannot abrogate their title, or ſurrender their happy uſurpations. The Rhine is France becauſe their veſtiges are diſcernible upon its banks; Martinique and Pondicherry becauſe they remember to have been there; and all this by the fundamental, unalterable, conſtitutional law of that empire, a law which no ſubſiſting authorities, not the Sovereign itſelf has a right to change, infringe, or repeal.

It is proper therefore to examine what are the fundamental or conſtitutional laws of any ſtate; and ſince they are aſſerted in ſpite of impreſcriptibility, to define, coerce, and circumſcribe with

a magical and irreſiſtible power, the preſent energies and activity of legiſlatures otherwiſe omnipotent, to enquire with ſome degree of minuteneſs and at leaſt perſpicuity, what is the ſubject and matter of this paramount legiſlature.

The fundamental laws of all civilized ſocieties, are as it were their exterior belt confining the maſs and body of their ordinary ſtatutes and cuſtoms: like the ecliptic and the equator, they are the creatures of philoſophy and convention, and have no real or tangible exiſtence; they are that by which ſtates are confined to their own form, and prevented not from an eccentricity of courſe, but a change of figure; they are the laws that defend the laws, that interpret their ſpirit, that aſcertain their object, that contain the conſtituted authority within the bounds of his commiſſion, that hinder him not only from uſurping upon his conſtituents, but from *ſurrendering* to his co-eſtates, or *abrogating the powers* that are deputed to him. The Prince that would govern without Parliaments in England, is not more hemmed in by the fundamental laws, than the Parliaments themſelves that would ſurrender their legiſlative authority to the Prince; the Charles's and the Parliament of Henry the Eighth, were equals in guilt, and both betrayed or broke the

fundamental

fundamental laws of that kingdom; treachery and force, cowardice and uſurpation, extortion and ſurrender, there is no difference; *the diſtribution of the powers is the conſtitution, and the conſtitutional law that which guards and ſuperintends that diſtribution.* There is no other fundamental conſtitutional law; not the law of treaſon, not the law of ſucceſſion; it is not the importance, it is not the antiquity, it is not the ſanctity of a ſtatute which makes it conſtitutional, no law is fundamental but that which preſerves the equilibrium and independence of the ſovereign power in the ſame hands and partitions where it is depoſited by the conſtitution.

Nothing therefore *exterior* can be fundamental or conſtitutional; no part of the relations of a ſtate with foreign ſtates can by any means or in any ſenſe, become conſtitutional; much leſs can conqueſt, uſurpation, violence, ambition, fraud, and final perſeverance in them all, be part of the fundamental laws of any ſtate. The very terms are in contradiction. What is there in common with the conſtitution of France, whether royal, mixed, or republican, and the ſovereignty of other countries or colonies, whether they are annexed to France, or are conquered from France, or remain with their antient legi-

timate

timate poſſeſſors? Can it be part of the conſtitutional law of any ſtate to conquer at all? To preſerve conqueſts, or to determine the nature and mode of the government of conqueſts? Is it not clear that all theſe events are, in the firſt place, contingent, therefore not conſtitutional, becauſe what is conſtitutional is fixed, certain, and original? That they are conventional, and therefore to be guided by the relative circumſtances of both countries, the conquered and the conquering, and above all by the very capitulation itſelf, in which, if the conſtitution of the victor were to be treated of by the ſubdued, this unalterable, fundamental law would be as liable to modification as any other part of the ſtatutes of a country?

A fundamental conſtitutional law cannot therefore regard the particular exerciſe of any authority legally deputed, but merely the delegation of authority; it cannot concern a foreign ſtate, nor even the ordinary adminiſtration of its own; it cannot be alledged to any independent power, except as the form of proceedings, and in order to determine the modes of their reciprocal relation. France may charge her executive government with the proviſional negociation, and her legiſlature with the ratification; (as we ſhall preſently find to be the caſe,)

England

England entruſts the one and the other to the Sovereign, who delegates the firſt to a miniſter, but exerciſes the final power of ratification in his own perſon: and theſe proviſions may be reciprocally alledged or explained in caſe of doubt or neceſſity.

The perſons who govern France could not, therefore, have pretended to be diſabled and incapacitated by a conſtitutional law, if they had underſtood, or rather if they had not derided and ſet at defiance all the principles of legiſlation: and if being determined at any rate to continue the war in ſpite of their own nation, as well as of all Europe, they had not at the ſame time eluded the guilt of it at home, and affected the inſolence of it abroad, by contemptuouſly rejecting the pretended neceſſity of it upon another legiſlature; or to ſpeak more accurately upon their own, in another ſtate of its political exiſtence.

If, for inſtance, after having declined the glory, or ſhifted the crime of this atrocious reſolution upon the deceaſed Convention, the French leaders had not coveted an opportunity of inſulting the Engliſh nation, and the European republic, why ſhould they have dared, it may be aſked, to inſinuate that the Court of

Great

Great Britain, which in the eyes of no ſmall part of the world, had deſcended from its dignity, and hazarded its intereſts and ſafety, in offering to treat at all, had proceeded without ſincerity?

If the continuation of the war is a thing impoſed upon them by the conſtitutional charter, or if it is the voice and ſenſe of their nation, that it ought to be carried on till all Europe ſhall ratify and guarantee the incorporation of the conqueſts, what occaſion is there for the governors of France to divide the popularity of their meaſures with the hoſtile court of Great Britain, or to admit it to any ſhare of the benefit they are conferring upon France? If it is for the good or the glory of that country that there ſhould be no period to hoſtilities, and that its legiſlature and government ſhould be without the power of putting an end to them; and above every-thing, if it is true that they do not poſſeſs the power of putting an end to them, what purpoſe can it anſwer, to ſuſpect or deny the unprofitable ſincerity of Great Britain, or diſpute the pacific intentions of a court to which they oppoſe the impreſcriptible veto of the Convention?

There is only one point in the note of Mr. Barthélémi

Barthélémi, which is clear beyond all diſpute and conjecture; namely, the reſolution of his employers to continue the war; all the reſt is ſhaded with different degrees of doubt, difficulty and darkneſs. At one time, theſe perſons ſeem fearful leſt England ſhould derive any popularity from the overtures ſhe has made towards pacification; at another, they think her duplicity is apparent, becauſe ſhe has propoſed a congreſs and diſcuſſion, and neglected to ſend a plenipotentiary to acknowledge the authority of the conſtitutional charter: theſe proofs of fraud and evaſion upon the part of that power, are reinforced and confirmed by ſtill farther teſtimony and concurrence; for not being certain that her overtures for a congreſs would be accepted, ſhe has had the perfidy to demand, "whether France would point out any other mode whatſoever of arriving at the ſame end, namely, a general pacification?"

Now though the public of Europe might be inclined from conſidering the relative ſtate of theſe powers, to ſuſpect the pacific intentions of that which poſſeſſes all the means and reſources of war, and to believe the ſincerity of the other which is evidently cruſhed and exhauſted in the competition, it would be very extraordinary if they could diſcover any mark of *inſincerity* in

the offer to examine any overtures on the part of France, which might there be thought preferable to the mode propoſed by Great Britain. In naming a congreſs, that court only followed the diplomatic cuſtoms and uſages of Europe, and in leaving an opening for any other propoſition from France, it avoided the imputation of adhering tenaciouſly to eſtabliſhed forms, particularly with a country which affected to deride and contemn them. Peace, however, is aſſerted in the note of M. Barthélémi*, to be the true intereſt of Great Britain, and war to be an impreſcriptible duty impoſed upon France by the conſtitutional charter, until the final ſubmiſſion of Europe to the incorporation of her conqueſts. How, therefore, does it happen, that notwithſtanding the intereſts of one country in peace, and the duty of the other in war, the governors of France ſhould affect pacific intentions *in ſpite of their duty* and accuſe England of inſincerity *in ſpite of her intereſts?* With all reſpect for the talents and perſuaſion of M. Barthélémi, this logic is abſolutely revolutionary, and cannot be admitted by the regular powers of the human underſtanding.

Neither is it an axiom adapted to the common

* En effet ſerait-il vrai, que l'Angleterre commençait à *connaître ſes véritables idtérêts?*

appre-

apprehenſion and capacity of mankind, that "the neceſſary reſult of a congreſs muſt be to render every negotiation interminable," not only becauſe it is contradicted by the hiſtory and experience of this quarter of the world, but becauſe it is an expreſs part of the law of nations, that ſovereigns who have aſſociated in a war, or who have directly taken part in it, are *obliged to treat in concert*, though each makes reſpectively his own treaty of peace*." But upon this ſubject it is ſuperfluous to expatiate, ſince it is incontrovertible, that wherever a congreſs has failed of ſucceeding, or has protracted the negotiations to an unwarrantable length, it has not been from any neceſſity ariſing out of the thing itſelf, unleſs M. Barthélémi will contend that falſhood, inſincerity, and evaſion, are the neceſſary qualifications of all public miniſters, but from an indiſpoſition in the principals of theſe delegates, which would equally have prolonged or defeated every other manner or form of negotiation†.

* Vattel. B. 4. ch. 2. ſ. 16.

† Conferences and congreſſes are a way of reconciliation which the law of nature recommends to nations as proper to put an amicable period to their differences. Congreſſes are aſſemblies of plenipotentiaries appointed to find out methods for a reconciliation, and to diſcuſs and adjuſt their reciprocal pretenſions. Vattel. B. 2 c. 18. ſ. 330.

Is it poſſible for a miniſter ſo experienced and accompliſhed as M. Barthélémi, to have forgotten the obligations, which, not to go back farther than one century, Europe lies under to more congreſſes than one, which have at leaſt ſuſpended its ſufferings and dangers from the uncureable ambition of France? Can he need to be reminded of thoſe at Ryſwick*, Utretcht†, and Aix-la-Chapelle‡, every one of which decided of its liberty, and with various degrees of ſafety and ſucceſs, retarded and kept back the moment in which it is compelled to ſtruggle for every thing againſt the force and crimes of his country? Is it unknown to him that the Duke de Choiſeul propoſed to the Britiſh miniſtry to hold a congreſs at Augſbourg in 1761, though M. de Buſſy was at that time employed in London, and Mr. Stanley at Verſailles, reſpectively negotiating preliminaries? Or will he aſſert, that the unſucceſsful conferences at Gertruydenberg§, or even thoſe at Soiſſons‖ and Cambray**, had no effect in accelerating the moments of peace? Or, finally, does M. Barthélémi, whoſe nation has rejected all the laws of nations, and endeavoured to involve the civilized world in the original rudeneſs and barbariſm of its in-

* 1697 † 1712. ‡ 1747. § 1710. ‖ 1724. ** 1728.

fancy,

faney, deſire to drive out of it all memory of peace, and all known means of attaining it?

What would naturally diſpoſe and compel the mind to adopt this latter alternative as the true intention of M. Barthélémi and his employers, is the care and affectation with which they expreſs their incompetence to negotiate; they have not only no power to *conſent*, (which it will preſently be proved they have no power or authority to do at all, or in any caſe) but they cannot make or *liſten* to any propoſition contrary to the conſtitutional act*.

Now it is evident, that for one country to refuſe to receive any propoſition whatſoever from another, though in fact it ſhould be contrary to the exiſting laws, and out of the power of the executive authority to comply with it, would be both abſurd and unjuſt, and contrary to the practice and uſages of nations.

Abſurd, becauſe it cannot be denied but that the exigency of circumſtances and adverſe fate of war, may require and compel a nation to change, infringe, or repeal the exiſting laws, and that it is impoſſible to define or foreſee, or provide for ſimilar contingencies. In ſuch caſes the executive government muſt recur to the le-

* Chargé par la Conſtitution, &c. le directoire ne peut faire ou entendre aucune propoſition qui y ſerait contraire.

giſlature,

giſlature, and that be made lawful, which till then was reſtrained and prohibited. It would perhaps mortify M. Barthélémi, to remind him of thoſe treaties which have been regiſtered in the parliaments of France, for the ſecurity of powers, who, exacting any diſmemberment of the French territory, recollected the interpretation given by the aſſembly at Cognac to the treaty of Madrid.

Unjuſt, becauſe foreign nations are not bound to know the exiſting laws or conſtitutional limits of authority in the executive governments of other countries, and becauſe it cannot be alledged but that in caſes of neceſſity, there exiſts ſomewhere or other in every ſtate, a full, perfect, and unqualified ſovereign power to legaliſe and perform every poſſible ſtipulation.

Againſt the practice and uſages of nations, as is proved by every treaty which has afterwards been invalidated for incompetency in the contracting parties, and by the above-mentioned treaty of Madrid in particular: and as might be ſhewn familiarly by thoſe demands and propoſitions of ambaſſadors, which cannot be granted by the exiſting laws of the countries where they reſide, but which are nevertheleſs received by theſe governments, who act afterwards accord-

ing

ing to the expedience of circumſtances and the nature of the caſe, either referring them to the legiſlature for a future proviſion, or otherwiſe giving ſatisfaction to theſe miniſters*.

But if it were really the caſe that the French government could not receive or liſten to any propoſitions on the part of foreign ſtates, in contradiction to the conſtitutional act, and to their own interpretation of that act, it would then be confeſſed and incontrovertible, that the conſtitutional act pretends to legiſlate for other nations as well as for France; that its decrees are already paramount in London and Vienna, that all Europe muſt acknowledge its ſovereignty and juriſdiction, particularly in the territorial code and chart of property which it has laid down for the new diviſion of that part of the world.

In the mean time notwithſtanding the unconſtitutional love of peace diſplayed by the rulers of France, and the inſincerity of Great Britain in oppoſition to her true intereſts, which has rendered her overtures unproductive of thoſe happy effects ſo illegally deſired by her enemies; it is impoſſible that the public meaſures of ſtates, and their communications and relations with each other during hoſtilities ſhould be

* See 7 Ann. c. 12, ſ. 3d. or Lord Whitworth's Embaſſy to Ruſſia.

totally

totally indifferent, and operate no change or effect whatſoever, either upon the nature and juſtice of the quarrel, or the favour and popularity with which it is reſpectively regarded by their own nation, their allies, and by thoſe countries which have preſerved their neutrality. Theſe overtures, therefore, in ſpite of their rejection and the inſolent contempt with which they have been rejected, muſt in their own nature produce a ſenſation in the ſeveral quarters that have been named, for this reaſon alone, that they have been offered, and that they have been refuſed.

It is impoſſible, ſuppoſing the public of Europe to be guided entirely in the inferences they draw from the propoſals of England, by the note of M. Barthélémi, but that they muſt conclude, the circumſtances of France to be ſuch as authorize her to preſerve her acquiſitions in Europe, to reclaim all ſhe has loſt in her colonies and ſettlements, in the Eaſt and Weſt Indies, and finally to preſcribe and *dictate* the terms and conditions of a pacification, concerning which, ſhe impoſes her negative upon congreſſes, conferences and diſcuſſions, as the certain and inevitable means of rendering it unattainable. The neutral part of Europe, therefore,

fore, conſidering only the ſtate of this abortive negotiation, would be juſtified in believing, that France is the victorious party in the war; and that the ſole doubt ſhe entertains of her conditions being implicitly complied with, ariſes from the ſuſpicion ſhe admits of England not being yet quite ſubdued and exhauſted to the point at which alone it can be poſſible for that power to conſent with *ſincerity*, to her conqueſts and uſurpations. Theſe ſtates, therefore, might very naturally conclude, that any further reſiſtance upon the part of that power, is to be aſcribed only to a national point of honour, or a proud and unprofitable deſpair.

The rulers of France, they will imagine, perceiving the ſuperiority of that country over its enemies, and being enabled by the exuberance and redundancy of their reſources, to impoſe upon the reſt of Europe, conditions equivalent to an eternal ſubjection under the authority and phyſical predominance of their nation, have had the modeſty and moderation to diſſemble the exceſs of their proſperity, and to *pretend* a *conſtitutional neceſſity* for *conſenting* to no other terms, than thoſe which fortune has thrown into their lap, and which the events and circumſtances of the war have rendered juſt and

 ſuitable,

ſuitable, conſidering the relative ſituation of France, and of her enemies.

So much reſerve and continency of ambition, ſuch chaſtity in power and preponderance, ſuch a delicacy in force and victory, will be naturally entitled to their applauſe and admiration. They will compare them with the language ſhe might have held, if ſhe had been ſeduced by the conſtancy of her good fortune, inflated by the uniformity of her ſucceſſes, or confident of the permanency of her means and reſources. They will almoſt adore the tenderneſs of her avarice, and the ſcruples of her conſcientious ambition. "The conſtitutional act," the "exiſting laws", will paſs with them only for the amiable refinements and ſenſibilities of ſuſceptible proſperity, diſſembling and diſguiſing itſelf to the eyes of humiliated miſery and immeaſurable inferiority. The rulers of France they will think, inſtead of modeſtly pretending the authority of their predeceſſors, and their own actual diſability, might have proclaimed and fulminated their bull to the proſtrate nations, at laſt ſenſible of her predominance; they might have declared, that, as Europe had appealed to arms for the deciſion of its diſpute with France, it muſt alſo abide by the deciſion of arms. Her armies, they might have ſaid, are every where

conquerors,

conquerors, not only at Mentz and Manheim, and in the countries through which they purſued the Mareſchals de Clerfaye and Wurmſer, during *ſixty days*, but in the Eaſt and Weſt Indies, where ſhe has taken Jamaica and Calcutta, and expelled the colours with the very name and memory of Great Britain. Her fleets, they might have announced to be every where triumphant, and the ocean covered with the wrecks of her enemies; the commerce of all the world is in her harbours, her manufactures are encreaſed, her agriculture improved, her taxes ſuperfluous, her finance redundant, her population progreſſive, her reſources inexhauſtible; you have appealed, therefore, they might have ſaid, to the iſſues of war, and they are againſt you; the verdict of Fate and Heaven condemns you; you are taken in execution under the law of the ſtrongeſt; you are conquered, and therefore *you are France*; a part of the indiviſible Republic, an integral portion, a ſubordinate department; for wherever our arms have penetrated it is France; we inhabit where we conquer; we ſettle where we invade; wherever we have fought is our country!

Such, it may ſay, might have been the lofty language of this victorious nation; which, diſabling,

abling, diſqualifying, and diſparaging itſelf, ſo amiably throws back all the luſtre and envy of its proſperity upon the will and bequeſt of a proviſional revolutionary government, no longer in exiſtence, and of which the memory is weighed down and oppreſſed with the public curſe and execration. Sublime generoſity! not only to decline the triumph, but to attribute the victory, where no exultation, no applauſe, no renown can follow; to be contented with the eſſential acquiſition, ſhorn of all its rays of ſplendour, of the echo of fame, of the exaggerations of popularity.

France, therefore, diſſembling her triumphs and ſucceſſes, though ſhe may not poſſeſs the magnanimity to forego her *real* advantages, is doubtleſs entitled, in the eyes of the neutral part of Europe, to the negative praiſes of modeſty and forbearance, and to thoſe of managing with tenderneſs and delicacy the pride and honour of her enemies, compelled, in fact, to implicit ſubmiſſion, but capable of injuring themſelves ſtill more deeply, by a protracted reſiſtance, and an unqualified deſpair.

Such muſt be the natural belief and concluſion of the neutral countries; the ſuperiority of France over all her enemies, and the generoſity of her leaders in diſſembling the exceſs of her

advantages.

advantages. Upon the other hand the allies of Great Britain, and the Court of Vienna in particular, may perhaps entertain a very different opinion of all theſe circumſtances; they cannot obſerve, without ſatisfaction what with the natural injuſtice of prejudice and ſelf-love, they will conſider as the inſolence of the enemy in the particular mode and terms which he has choſen for the rejection of the overtures, and in the unqualified declaration, that he cannot, in time to come, either make or receive any propoſition contrary to his own interpretation of the conſtitutional act.

It remains to enquire into the effect of theſe meaſures, upon the reſpective opinion of the Engliſh nation, and the individuals which compoſe the exiſting Republic of France.

In England, from the beginning of the war, and previous to its commencement, there had exiſted three parties, which embraced, without excluſion or indifference, every deſcription of perſons, almoſt every individual in the nation.

There were thoſe who thought the war juſt, neceſſary, and indiſpenſable.

Thoſe who thought it might have been avoided, or poſtponed.

And thoſe who thought it could only be terminated by the unqualified ſubmiſſion of

France,

France, and her return, under the known and acknowledged laws of nations, to the principles of the European Republic, and the balance of powers.

The firſt of theſe was the party of the miniſters and legiſlature, or in the language of France, of the conſtituted authorities.

The ſecond was that of the oppoſition, and the diſaffected; at firſt diſtinct and at variance, but finally reconciled and united, after the attempt upon the King's perſon, and the ſubſequent meaſures of ſecurity and precaution, enacted at the cloſe of the year 1795.

The third was the party, or rather the opinion, of men of great weight and authority, from their talents and paſt ſervices, but equally unconnected with the miniſters, and the oppoſition; their ſentiments had never been fully adopted by either of theſe parties, though, to a certain length, they coincided entirely with thoſe of the adminiſtration; and only began to diverge from them, when adminiſtration, deſirous of reſtoring peace and tranquillity to the world, had waved the ſtrict right of conſidering the crimes and anarchy of France, as an obſtacle and barrier to pacification*.

* England accredited the conſtitution of 1795 by all poſſible means, particularly by the King's meſſage to Parliament, Dec. 8, 1795.

It is important to conſider the conduct of the executive directory reſpecting the late overtures in its natural and direct operation upon all theſe diſtinct opinions and parties.

In offering to treat with France under her actual organization, and at a time when ſhe had invoked her own bankruptcy, annihilated her public paper, eſtabliſhed a forced, arbitrary, and perſonal capitation, renewed her requiſitions, levied her taxes in kind, and, in one word, maintained herſelf in any political ſenſe, by the ſimple, unqualified, and undiſguiſed influence and operation of terror, it is evident that the Engliſh government had, from whatever motive, deferred to the wiſhes and reclamations of the ſecond party, and acted in direct contravention to the opinion of the third, who went the full length of the Court of Vienna, and conſidered peace even abſtractedly as a ſanction and indemnity of the *Regicide* and other crimes that had been perpetrated and ſuffered in France.

This party, with whoſe wiſhes and principles the Britiſh Government now appeared to coincide, and to which it had in fact ſacrificed the favour and concurrence of the other, had concentrated, during a long period, the whole of its

efforts,

efforts, to induce the Miniſters to make overtures of negociation. "If France refuſes to treat," they ſaid*, "or if ſhe inſiſts upon unjuſt and inadmiſſible conditions, you will be ſo far from loſing any point by the overture, that you will have all England unanimous, you will convert whatever oppoſes you at preſent, you will have even ourſelves for your aſſociates and confederates. Whatever bears the name and diſtinctive character of Engliſhmen will aid and ſecond you in the conduct and ſupport of a war, which, by the refuſal or intemperance of France, will then have indeed become what you have hitherto only pretended, a war of juſtice and neceſſity, a war of honour and utility, a war for the liberty and independance of Europe."

This language of the minority in the Britiſh Parliament, (though not perfectly correſponding with her views, and leſs grateful to her ears than thoſe full and perfect echo's ſhe obtained from the clubs and correſpondents) was long uſeful, and acceptable to France; and it is at the leaſt extraordinary that ſhe ſhould have taken ſo decidedly and at once the reſolution of foregoing and abandoning the advantage and aſſiſtance ſhe derived from it; making pub-

* Vide Parliamentary Debates in both Houſes.

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lic and authentic declarations, which ſhe knew would force that party, in conformity with its own principles and engagements, to coincide and co-operate implicitly and loyally with the government.

The other party, which (if it did not convey an unjuſt imputation) might be deſcribed as *Imperialiſt*, however it might be offended at the overtures which it thought derogatory to the honour, and incompatible with the ſecurity of the country, muſt have been too much and too ſincerely rejoiced at the conduct of France, to retain any ſentiment of reſentment or aſperity towards the government of Great Britain. Happy in the failure of meaſures they believed unſafe, unwiſe, or diſhonourable, they muſt have beheld (and France muſt have known they would behold) with ſatisfaction, the inſolent rejection of terms which they believed ought never to have been offered, and have exulted in a proof of their own foreſight and ſagacity afforded by the proud and contemptuous demeanor of their enemies upon an occaſion they thought ſo hazardous to the honour and intereſts of their own country. The rulers of France muſt have therefore known when they dictated the note of M. Barthélémi, that they were not only refuſing peace, but ſtrengthening their enemies;

that they were not only prolonging the war, but uniting and reconciling all their opponents; they muſt not only have known that they protracted the conteſt with England and her allies, but that they made England unanimous in her own boſom, and reconciled to her thoſe of her allies who were indignant at her offers of treaty.

This however would confirm one part of Europe in its opinion of the power and reſources of France, and it would be argued that it could only proceed from the ſentiment of her own force and reſources, that ſhe would voluntarily, and even with affectation, ſacrifice the friends ſhe poſſeſſed in the boſom of her enemies, and unite her rival nation in a complete and perfect union againſt her own views and pretenſions.

The oppoſition and the Imperialiſt, or as it might be called, the ultra-miniſterial party, being thus united and incorporated with the adminiſtration; (this becauſe its wiſhes have been conceded, and the very 'caſus fæderis' of their alliance with government had occurred in the intemperate behaviour and refuſal of France to negociate; and the other from the failure and non-effect of the meaſure they dreaded and reprobated,) it follows that the whole of England is unanimous and determined in the final proſecution of the war, till ſuch time as, in the words

words of the anſwer to M. Barthélémi, "the King's enemies ſhall manifeſt more pacific ſentiments."

It occurs next to enquire into the ſenſation and effect which the Engliſh overtures and their rejection by the government of France, muſt neceſſarily produce in the public of that nation: If there exiſts any *public*, that is to ſay, any union or body of opinion in a country in which all political, all civil, all natural, all domeſtic confidence and relation have been deſtroyed by cruelty and terror, and in which perſonal ſuſtentation or ſafety during the deſcent of each day's ſun, is become the ſcope and boundary of human care and proviſion.

The firſt thing that offers itſelf to the mind, is the myſterious ſilence and ſecrecy of the Directory upon this important occaſion. That the executive government of a country at war, ſhould declare itſelf incompetent to treat with the enemy, and neither communicate to the legiſlature, nor to the public, either the offers that had been made to it, or *the circumſtance of its own diſability*, is ſo extraordinary in itſelf, that it can ſcarce derive, from any thing extrinſic, any additional power of aſtoniſhment: not from this very executive government having a few months before announced to

the legiſlative bodies, that it had itſelf offered terms of peace to the enemy! and that they had been by them refuſed and rejected! not even from the falſehood and impudence of that declaration, *ſince, in fact, France has never made any overtures of peace either to his Majeſty the Emperor, or to the King of Great Britain.*

That the perſons poſſeſſed of authority in France, ſhould pretend to have made offers of pacification, when they had not made them, and conceal from France thoſe offers they have received, is not, however, the moſt remarkable circumſtance in their conduct; for if in truth theſe perſons had made thoſe offers, and they had been rejected, could it be poſſible for them to have ſuſpected, that in the offers made by Great Britain, "ſhe had no other object than to obtain the favour which always accompanies the *firſt* overtures of peace?*"

It renders the ſilence of theſe perſons upon thoſe two points ſtill more myſterious and unaccountable, that their pretended incompetency was totally unknown and unſuſpected in France; which country had for a long time unequivocally put forth its vows for peace, *by the ſurrender of the conqueſts*, and preſſed the executive government to adopt that reſolu-

† Note tranſmitted by M. Barthélémi.

tion,

tion, both by the means of the preſs, and by various motions and diſcourſes in both aſſemblies of the legiſlature. *It was never anſwered to theſe writers and deputies*, that what they deſired was forbidden by the conſtitutional charter, and that the exiſting government of France were coerced and confined by the impreſcriptible will of the Convention. This vain and faſtidious evaſion was only *good for their enemies:* it would have alarmed their own country to have been told, that the great prerogative of peace and war was in abeyance and ſuſpence, that the Convention had carried it away with them, and buried it in their own tomb. It might have arouſed a torpid and ſlumbering people, enfeebled and exaſperated with diſtreſs and calamities, ſometimes brutalized, and ſometimes fiended by oppreſſion and deſpair, to have learned that the Conſtitution had entailed the war upon them and their poſterity, and given them a fee-ſimple in their famine and requiſitions; or that it had at beſt leaſed out their ſufferings and diſaſters for the term of nine years, before the expiration of which no article of the conſtitutional act can be reviſed or repealed*.

If there could be any hope of the French

* Acte Conſtitutionnel, titre. 13. Reviſion de la Conſtitution, art. 338.

people

people after all they have ſuffered, and perpetrated of crime, after the laſſitude of guilt, and the paſſive deſpair into which they have fallen, it might be gathered from this circumſtance, that their tyrants have not dared to irritate them to this extremity, nor provoke the laſt inextinguiſhable ſentiment of injured humanity in their boſoms, by that perfidious and atrocious language, which without ſcruple they have held to the Court of Great Britain. *They knew, beſides, the direct falſehood of the fact they aſſerted*, namely, that they were not permitted by the conſtitutional charter to conſent to any alienation of that, which according to the exiſting laws conſtitutes the territory of the Republic†. The conſtitutional charter, with all its defects, arrogance, and abſurdities, is totally free from this particular act of inſanity, and is ſlandered and calumniated by the government, which pretends to act in obedience to an exceſs of folly and preſumption, at which the Convention itſelf wanted time or perſeverance to arrive.

The governors of the French people knew well that the King of Great Britain and his allies could not ſuffer their miniſters to

† L'acte Conſtitutionnel, ne lui permet pas de conſentir à ancune aliénation de ce que d'après les loix exiſtantes conſtitue le territoire de la Republique. Note de M. Barthélémi.

diſcuſs

diſcuſs this conſtitutional charter with M. Barthélémi; and that in that quarter they were totally exempt from any danger of refutation. If they had made the ſame aſſertion, to either of the aſſemblies of the legiſlature, or in the journals under their own direction and authority, they were not only aware of the indignation and terror with which it would have been received by the people, but of the facility with which it would have been confuted by the conſtitution itſelf*.

" The directory only," ſays this conſtitution, " can entertain political relations with the exte-" rior, conduct negociations, &c.†"

" It is authorized to make preliminary ſtipulations, &c. as well as ſecret Conventions‡."

" The directory decides, ſigns, or cauſes to be ſigned, all treaties of peace, &c. with foreign powers§."

The only check or circumſcription of the full powers and authority of the executive directory, is in the caſe of *ſecret Conventions*.

" In the caſe where a treaty contains any *ſecret* articles, the diſpoſitions of *thoſe* articles cannot be deſtructive of the public articles, nor

* Conſtitution de France, Title 12.

† Relations extérieures, Art. 329.

‡ Ib. 330. § Ib. 331.

contain

contain any alienation of the territory of the Republic*."

Nothing can be clearer than the context of theſe proviſions, which would have ſtood in need of no comment, if the perſons in poſſeſſion of the authorities they confer had not ſo perfidiouſly denied their own powers, and invalidated their commiſſion.

To prevent any miſtake, and cut off any future ſubterfuge, it may not be improper to ſtate the law and uſages of nations, with regard to the ratification of treaties, which is conſtantly reſerved to the Sovereign himſelf, notwithſtanding the *libera poteſtas*, or fulleſt powers, with which he can inveſt his miniſters and proxies†.

The ratification, reſerved by the conſtitutional act to the legiſlative body, is no reſtriction upon the *miniſterial* power of the directory to treat in

* Ib. 332.

† Vattel. B. 2. ch. 12. art. 156. "At preſent, to avoid all danger and difficulty, princes reſerve to themſelves the ratification of what has been concluded in their name by their miniſters.

"Every thing their miniſters have concluded remaining without force till the prince's ratification, there is leſs danger in giving them a full power."

any

ner, or to ſtipulate any alienation of territory or even diſmemberment of antient France; the legiſlative aſſemblies may certainly refuſe to ratify theſe conditions, if it ſhould be their opinion that they are not compelled and made neceſſary by the actual circumſtances of the country, and the events of the war. Juſt in the ſame manner might the Emperor or the King of Great Britain refuſe to ratify any treaty concluded by their miniſters, if they had conceded any thing beyond their inſtructions, or made ſacrifices of territory or other intereſts, which in the judgment of their majeſties, ſhould be greater than the neceſſity. The only point of difference ariſes in the republican form of government, and affects *not the powers to treat*, but the *authority to ſanction*. The hands of the directory are not tied up in any manner, nor upon any ſubject, but all their ſtipulations are made ſubject to the ratification of the legiſlature*. They have the fulleſt powers to negotiate, and to contract, but they have no power whatever to *conſent* or to ſanction. Foreign ſtates, therefore, in their relations with France, have virtually *two* ratifications to call for; namely, that of the directory to the act of their miniſter, and that of the legiſlative body, to the act of the directory: the difficulty, what-

* In America the ratification is entruſted to the preſident.

ever it is in this double ſanction, does not regard the directory but foreign ſtates; who having ſtipulated with M. Barthélémi, muſt ſtill expect the intermediate ratification of the directory, and the final ſtamp of the legiſlative authority.

The executive directory of France not being authorized to ſet the national ſeal and faith to any treaties whatſoever, it may be aſked why the alienation of the territory of the Republic is expreſsly and particularly forbidden to be ſtipulated by any *ſecret article?* To this the anſwer is given in the very next article of the conſtitution.

" Treaties are only valid when they have been examined and ratified by the legiſlative body; *nevertheleſs the ſecret conditions may receive proviſionally their execution, from the moment they are agreed to by the directory**."

The ſurrender, therefore, of the *territory* of the republic, (being, like every other poſſible condition of a treaty, to be finally conſidered and ratified by the legiſlature) is carefully prohibited from being ſtipulated by a *ſecret article, receiving a proviſional execution*; becauſe *in this caſe* the proviſional execution would defeat and annul the final arbitrement of the legiſ-

* Ibid. art. 333.

lature

lature whoſe ſubſequent refuſal to ratify a ſurrender already made to the enemy, would be nugatory and ridiculous.

The conſtitutional act, therefore, has inveſted the directory with powers to *treat* of the alienation, not only of the countries uſurped by France, but in caſe of neceſſity of the members and departments of France, though it has reſerved and *ſubmitted the treaty itſelf* to the judgment and ſanction of a higher authority; and the legiſlative body, whoſe powers and functions are thus abridged and crippled by the perfidious conſtruction of the conſtitutional charter, as it is interpreted by the directory, and openly ſeized and uſurped by their pretenſion to *conſent at all*, might not have borne, the *treaſonable* language, which has been hazarded towards foreign powers, not willing to diſcuſs the French conſtitution.

This circumſtance may alone account for the caution and ſilence of the perſons poſſeſſed of authority in France, and for their not having communicated to the councils a tranſaction, in the courſe of which they have not only perfidiouſly denied their own powers, but traiterouſly arrogated to themſelves thoſe of the legiſlature, and violated, in two ſenſes, the diſpoſitions of the conſtitutional charter.

It remains only to conſider the ſilence of

the government as it regards the public or population of France: this may be accounted for upon two diſtinct and very oppoſite ſuppoſitions; it may ariſe from their fear or their contempt for that unhappy people, from the inſtinct of danger, or the ſenſe and ſecurity of authority and force.

It cannot be matter of ſurprize, if the French people, ſo long the ſport of crime and misfortune, and under every revolution the victims of ſucceſsful villainy, fatigued, and diſappointed, diſguſted and diſpirited with the fruitleſs change of tyrants and the accumulating preſſure of tyranny, ſhould have become averſe and impatient of the conſideration of public affairs; that abandoning their chimerical ſovereignty to the uſurper of the moment, they ſhould offer no petitions but to heaven, and crowd no aſſembly but the church*.

This averſion to all political reflexions, and this ſtate of remorſe and depreſſion which have ſucceeded ſo naturally to the feveriſh exceſſes and intoxication of their minds; the danger or impoſſibility of aſſembling together, and thoſe of truſting any one in the general diſſolution of all moral ties and affections, have delivered over the French people *numerically* to the arbitrary will

* Tableau de Paris. Peltier, No. 29, p. 241.

and

and diſcretion of their rulers. Hence it is, that in the midſt of the public decay and languor, and of an univerſal laſſitude and debility, the government poſſeſſes a degree of force and authority, which cannot be paralleled in the moſt ancient deſpotic ſtates, nor reflected in the moſt habitual and ſuperſtitious obedience of any people.

Without theſe circumſtances, it would not be poſſible to account for the public acts of violence and oppreſſion, which are daily impoſed and ſuffered, in a country, which ſo few years ſince revolted againſt a conſtitution defended by the reverence of fourteen centuries; which having denied the obligation of all treaties, and of the natural and conventional law of nations, ſuffers itſelf to be pledged to a nine years war, perhaps an eternal one, by the impreſcriptible will of the Convention, and adores, with implicit piety, the remote and duſty antiquity of 1795.

Certainly whoever contemplates the ſtate of this afflicted people, and examines the miſeries and the wrongs they ſuffer, yet perceives no ſtruggle, no rebellion, no holy inſurrection, no ſign of pain or impatience, not even the toſſes and turnings of rage or deſperation, muſt conclude, that the rulers of France are employed in torturing a carcaſe from which the vital ſpi-

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rit has eſcaped; from the impaſſibility of the body, he would infer, that the life had already been pinched and pricked out of it? If, however, it ſhould be but lethargy—if it ſhould prove no more than a trance, a ſwoon, a pauſe of animation; if the giant, whom the Directory, and the two-thirds, have buried under their ponderous throne, ſhould change his ſide,—might he not tumble their palaces into the plain, or ſcatter them in cinders to the ocean?

Is it then only to the exploſion of the public deſpair, is it to the efforts of France herſelf ſhaking off the tyranny that perpetuates itſelf by war, that Europe can alone look up for the return of peace exiled by irrevocable laws, by fundamental and conſtitutional decrees? Is there no other hope, no other reverſion of repoſe and reſt, but after the conſtitution of ſeventeen hundred and ninety-five ſhall have crumbled into the crater of the revolution; till the directory ſhall have filled up the abyſs of Robeſpierre, and abſolved the deſtined courſe of horror and atonement? Is it to the people of France, and to freſh inſurrections; is it to the armies of France, who even when they croſſed the Rhine*, and were conquerors at Manheim and

* November 17, 1795.

Duſſeldorf,

Duſſeldorf, demanded peace and their own return to their country, that the moſt enlightened and powerful quarter of the globe is to owe its preſervation and its liberty, or even the firſt pauſe under all the evils that harraſs and deſtroy it? Is it to France, in ſhort, or to her own arms and perſeverance that Europe is to be indebted for peace and for deliverance?

When the conduct of the preſent government of France is conſidered by the armies and the people, when they ſhall both diſcover the fraud and falſehood with which it has pretended to have offered peace, and concealed the overtures of peace which have been offered; when they ſhall have full proof of the crime of the Directory in keeping them ignorant of events ſo important, and communicating to them falſe and forged accounts of negotiations pretended to have been broken off by courts to whom they have never been propoſed, and by enemies they ſubſequently acknowledge to be the *firſt* propoſers of negotiations; when they perceive the ſyſtematic plan and principle of their rulers is to keep them in ignorance, or to miſlead them by falſehood and deluſion, it will not be unwiſe nor unfounded to expect a return towards reaſon

ſon and ſentiment, which may conduct them to the overthrow and puniſhment of perſons not ſo guilty in the eyes even of their enemies, as in their own.

The fate of Europe, however, it may be hoped, will not ultimately depend upon the will and conduct of the French; neither when they decree a new partition of her territory, nor when they pretend to be bound and circumſcribed by ſuch a decree in ſpite of the deciſion of arms, and the fortune of their enemies. If that fortune may not rather be called Providence, which, after a ſtruggle of four years, has left all the reſources of war to thoſe who combat for laws and order, for the liberty and welfare of the human race, for civilization and morality, for virtue and religion; and reduced to prey on their own entrails, to exhauſt and ſquander the capital of human life and population, and ſacrifice the living generation in a maſs to their exigencies and obſtinacy, thoſe who fight againſt laws and order, and civilization and morality, againſt the liberty and welfare of the human race, and againſt all virtue and religion. The fate of Europe, though it may be better and more happily, and more early

early aſcertained by the opening of the eyes of the French people upon the proud and deceitful deſpotiſm of their rulers, may ſtill be defended by the virtues of other nations, as well as endangered by the crimes, and finally by the apathy of France.

For whether it be enthuſiaſm or torpor, whether it be fury or abject cowardice that puts twenty millions of human beings in requiſition, and gives their impulſe and direction into the ſame hands, it is of no conſequence—whether it be terror or patriotiſm, force or folly, madneſs or ſtupidity, while twenty millions of people are governed by one will, and ſtrike with one arm, the danger to other nations is the ſame. The paſſive ſubmiſſion of the French of to-day is as formidable as the fury and fanaticiſm of three years paſt, ſince it delivers them as completely as theſe did, to be blind and paſſive inſtruments in the hands of their rulers.

Since *peace* then can neither be propoſed nor *liſtened* to by France, upon other conditions than what in the actual circumſtances of the European powers would be a voluntary ſurrender upon their part of independence and liberty, it is conſoling to reflect that there is no immediate danger of their conſent becoming forced and

compulſory by the events of the war. Whether the French people ſhall expel theſe leaders who refuſe ceſſation and tranquillity to the earth, is in the breaſt of fate; but if they ſhall continue the deſperate ſtruggle even to the term falſely ſaid to be bequeathed by the Convention, there is no reaſon for finally deſpairing.

Even ſuppoſing France to remain fettered and rivetted to the arbitrary authority of the Directory, ſhe only promiſes to the world a deeper and more dreadful ſpectacle of diſtreſs and ruin. Exhauſted by a tyranny which pervading every thing, and conſuming every thing, abſorbs and dries every juice and ſuccour, and cuts off every root and fibre of reproduction, ſhe muſt more quickly arrive at a total inability, at the ultimate point of depreſſion, languor, and emptineſs, than if her means were managed, her efforts tempered, her renovation attempted or conſidered by the government.

With their revenues, or with ſuch anticipations as the practice of the laſt century has rendered habitual during wars, the powers invaded by France have hitherto reſiſted her inroads, when they were infinitely more violent than her preſent ſtate of decay and debility allows them to be made. Before ſhe had loſt by war and famine and executions, three millions from her population,

population, the whole ſpecie of the empire, and the total of her revenue and finances; while her fraudulent aſſignats were held at par by the guillotine; while the property of the baniſhed, the church and the crown yet adminiſtered to the peculations of her Convention, and preſerved her Jacobins, and her committees united by intereſt and common plunder:—before her commerce was utterly extinguiſhed—before her fleets were blown into the air or precipitated into the waters, or navigated by her enemies—before all or any of theſe misfortunes had taken place (againſt which her heart is hardened) and while her abominable principles were yet in vogue and favour—while every throne in Europe tottered with internal ſhocks, and the whole earth gave ſigns of terrible revolutions,—means have been found to conduct the ſtorm and elude the firſt fury of her colliſions. Can ſhe count, at this time, her precarious conqueſts, whoſe beſt tenure is a forged bequeſt of an incompetent teſtator, as indemnity againſt all that has been enumerated of calamity and diſaſter; or as equivalent againſt the poſitive acquiſitions of her enemies, that are guarded eternally by cannon and the ſea, not in the duſty archives of laſt year, or under the keys

of the antiquarian Camus? What are her acquiſitions in the marſhes of Holland no longer enriched from the ſhores of India and the commerce of the world, but a drain upon the beſt part of her population; upon her early manhood waſted and anticipated, and ſpent in greenneſs and immaturity? What her uſurpations in Brabant and Flanders, while the war continues, but a vulnerable ſide, where diſaffection and diſobedience, born of violence and extortion, grow up under her eyes, and threaten their parents*? Her conqueſts in Italy are ſtill the theatre of war, and ſhe can ſcarce throw her eyes to her other *natural barrier* of the Rhine without confuſion and diſmay. Where is this mighty matter of triumph and ſuperiority; where are thoſe rich and ſecure poſſeſſions that conſole her for all her colonies and ſettlements in both hemiſpheres, and efface from her memory the footſteps of commerce, and the aſhes of her marine? Upon what is it that M. Barthélémi, diſarmed of his conventional legacy, will found the title of his country to parcel out the earth, or to uſurp it? What law, what right, what parchment will he next aſſign, to juſtify and perpetuate the occupancy of France

againſt

againſt the lawful poſſeſſors of the ſoil, and give her ſeizin wherever ſhe has been ejected?

Certainly M. Barthélémi in a cauſe like that of France would willingly wave every plea but that of power; the right in wrong, the juſtice of the ſtrongeſt, the decree of arms, are the only title deeds upon which ſo ſkilful a negociator would chuſe to rely: But if *theſe* are againſt him, and the ſword of the modern Gauls will not weigh down the balance in his favour, what language muſt be that of Frenchmen? It is not, they will ſay by the mouth of M. Barthélémi, that we are more fortunate, or ſtronger, or richer in reſources, or have better proſpects in continuing the war, than the powers with whom we wage it, that we are reſolved to go on; but becauſe we bear firmer minds and greater reſolution; a more aſpiring courage, and more unſhaken conſtancy, than inferior nations; becauſe our pride is higher, our purpoſe more tenacious, our ſpirit more ſublime, our genius more powerful; becauſe we are the firſt order of mankind, high and paramount over the reſt of the human race; leſs vulnerable to evil, more patient in affliction, more obſtinate in diſtreſs, more perſevering under calamity and ruin. This is our title to dominion and ſupremacy over other men; and over nations, who expect an entire and abſolute

exemption

exemption from the blows they diſpenſe and the wounds they inflict; who fight upon the condition that no ſcratch is to reach them, who call for peace and ſurrender, not becauſe they are ſubdued, or exhauſted, or faint, or out of breath, but becauſe they have been hit; who have not the courage to bear privations, who are conquered by inconveniences, and yield not to us but to the high price of luxury!

Such is the language M. Barthélémi will be forced to hold, if he ſhould be deputed to ſupport the preſent pretenſions of France, in any conferences or diſcuſſions during the progreſs of negociation; and therefore it is no wonder his employers ſhould inſtruct him to cenſure and reject every overture for a *congreſs*. He knows too well, that in the actual partition of Holland between Great Britain and his Republic, the former of theſe powers is the gainer; that the barrier of the Low Countries, which never could in any time have been abandoned without the entire dereliction of the liberty of Europe, is now become ſtill more ſacred and indiſpenſible from the eſtabliſhment of the French dominion in Holland; that the poſſeſſion of thoſe provinces during the war is a draft upon the French armies which they can ill bear and imperfectly ſupply, and that at the peace they

muſt be exchanged at beſt for ſome conquered colony or poſſeſſion of France. He knows that the ſame fate attends the conqueſts in Savoy and Italy, and that when every change ſhall be made and every equivalent adjuſted, his country will remain debtor in the balance, deprived and deſpoiled of her eſtabliſhments in the Eaſt, and the beſt part of her rich plantations in the Weſt Indies. Theſe ſurely are inducements ſufficient for rejecting a congreſs, that is to ſay for refuſing to ſubmit the claims of France to the teſt of argument and reaſon, and for attributing her prepoſterous pretenſions to a pious neceſſity impoſed by the dying injunctions of the *venerable* founders of her conſtitution.

So long, however, as this forged and ſuppoſititious will ſhall be ſet up by the Directory, until it is cancelled and ſet aſide by the conſtruction of the legiſlature which is alone competent to interpret it, or until its clauſes are amended *after nine years**, by the interpoſition of an *aſſembly of reviſion*, or finally till it is avoided and annulled by the moral equity of the nation; there is no hope, no chance, no poſſibility of peace. Not only governments, but the oppoſers of governments have agreed and coincided in that point, and prepared the world from afar to expect this new coalition and alliance. There is

* Conſtitution, Title 13.

no

no oppoſition any longer to this juſt and neceſſary war: and as *henceforth* the unanimity of that great nation which has in all times defeated or repreſſed the ambition of France, is a ſacred pledge of her vigour and perſeverance. And as the fate of war or providence of heaven have thrown ſo great a part of the wealth and commerce of the world into her lap, and given to her cauſe and her courage all the human means of rendering them victorious; it is ſatisfactory to conſider, amidſt the ſhock and overthrow of principles, and the triumph of crimes which have convulſed and polluted Europe, that it is her aim and ambition to heal its wounds, and compoſe its troubles, and replace its mutilated and ſhattered frame upon its former pillars and foundation. It is ſatisfactory to behold one nation untainted by the moral plague which has poiſoned and infected the palaces and the cottages of the continent, aſſerting at laſt with *unanimity* the general human cauſe; combatting for the repoſe and tranquillity of Europe, but offering terms of peace in the midſt of a career of victories—poſſeſſing the ſpoils of France and Holland in the whole continent of India, all their uſeful counters, eſtabliſhments, and cities in the Iſles of Aſia and America, enriched with almoſt the whole of their commerce, colonies and ma-

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rine, but eager to reſtrain its glorious courſe, and terminate the ſufferings of an ungrateful and madding enemy.

All Europe will compare the haughty and prepoſterous vanity of France, with the generoſity and forbearance of Great Britain, upon this important and memorable occaſion; it will not overlook nor miſtake her magnanimity, nor be blinded by the vaunts and boaſts of her conceited and ſupercilious enemy. It will not attribute her overtures of peace to a ſenſe of weakneſs, or a dread of inferiority; nor their contemptuous rejection to any conſciouſneſs of advantage, or perſuaſion of greater ſtrength and more laſting reſources; but it will aſſign the effect diſtinctly to the cauſe, and diſcover the natural deſire and principle of juſt and legal governments in peace and order, and the intereſt and impunity of violence and uſurpation, in the prolongation of wars and the perpetuity of confuſions. It will ſee the true obſtacle to its peace and tranquillity, not in the victories or reſources of France, but in the fears and crimes of a handful of traitors, who can reign only amidſt the deſolation of their country, who have no ſecurity but in common danger, no aſylum but in the general diſtreſs and calamity. Compelled to vindicate with arms, the preſent intereſts of all mankind and deareſt hope of poſ-

terity, it will not be dismayed or terrified by the fury of the enemy which consumes his force, nor the rashness which cuts off his resources; nor can it despair, without something worse than cowardice and folly in a cause defended before the throne of Heaven, not only by its own justice, and the love of Heaven for justice and for man, but by the guilt and stains of those who invade it; by their contempt for laws and their hatred of peace, by horrors without name or number, by a mockery of virtue, and a profession of impiety.

FINIS.